

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

AMENDATORY SECTION (Amending WSR 95-17-099, filed 8/23/95, effective 9/23/95)

WAC 458-14-005 Definitions. The following definitions (~~shall~~) apply to chapter 458-14 WAC:

(1) "Alternate member" means a board member appointed by the county legislative authority to serve in the temporary absence of a regular board member.

(2) "Arm's length transaction" means a transaction between parties under no duress, not motivated by special purposes, and unaffected by personal or economic relationships between themselves, both seeking to maximize their positions from the transaction.

(3) "Assessed value" means the value of real or personal property determined by an assessor.

(4) "Assessment roll" means the record which contains the assessed values of property in the county.

(5) "Assessment year" means the calendar year when the property is listed and valued by the assessor and precedes the calendar year when the tax is due and payable.

(6) "Assessor" means a county assessor or any person authorized to act on behalf of the assessor.

(7) "Board" means a county board of equalization.

(8) "County financial authority" means the county treasurer or any other person in a county responsible for billing and collecting property taxes.

(9) "County legislative authority" means the board of county commissioners or the county legislative body as established under a home rule charter.

(10) "Department" means the department of revenue.

(11) "Documentary evidence" means comparable sales data, cost data, income data, or any other item of evidence, including maps or photographs, which (~~supports value~~) makes the existence of relevant facts more or less probable.

(12) "Equalize" means ensuring that comparable properties are comparably valued and refers to the process by which the county board of equalization reviews the valuation of real and personal property on the assessment roll as returned by the assessor, so that each tract or lot of real property and each article or class of personal property is entered on the assessment roll at one hundred percent of its true and fair value.

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

(13) "Interim member" means a board member appointed by the county legislative authority to fill a vacancy caused by the resignation or permanent incapacity of a regular board member. ~~((Such))~~ The interim member shall serve for the balance of the regular board member's term.

(14) "Manifest error" means an error in listing or assessment, which does not involve a revaluation of property, including the following:

- (a) An error in the legal description;
- (b) A clerical or posting error;
- (c) Double assessments;
- (d) Misapplication of statistical data;
- (e) Incorrect characteristic data;
- (f) Incorrect placement of improvements;
- (g) Erroneous measurements;
- (h) The assessment of property exempted by law from taxation;
- (i) The failure to deduct the exemption allowed by law to the head of a family; or
- (j) Any other error which can be corrected by reference to the records and valuation methods applied to similarly situated properties, without exercising appraisal judgment.

(15) "Market value" means the amount of money a buyer of property willing but not obligated to buy would pay a seller of property willing but not obligated to sell, taking into consideration all uses to which the property is adapted and might in reason be applied. True and fair value is the same as market value or fair market value.

(16) "May" as used in this chapter is expressly intended to be permissive.

(17) "Member" means a regular member of a board.

(18) "Reconvene" refers to the board's limited power to meet to equalize assessments in the current assessment year after the board's regularly convened session is adjourned, or to meet to hear matters concerning prior years.

(19) "Regularly convened session" means the statutorily mandated twenty-eight day period commencing annually on July 15, or the first business day following July 15 if it should fall on a Saturday, Sunday, or holiday.

(20) "Revaluation" means a change in value of property based upon an exercise of appraisal judgment.

(21) "Shall" as used in this chapter, unless the context indicates otherwise, is expressly intended to be mandatory.

(22) "Taxpayer" means the person or entity whose name and address appears on the assessment rolls, or their duly authorized agent, personal representative, or guardian.

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

"Taxpayer" also includes the person or entity whose name and address should appear on the assessment rolls as the owner of the property, but because of mistake, delay, or inadvertence does not so appear; for example, in an instance when the rolls have not yet been updated after a transfer of property. A property owner may contract with a lessee for the purpose of making the lessee responsible for the payment of the property tax and ~~((such))~~ the lessee may be deemed to be a taxpayer solely for the purpose of pursuing property tax appeals in his or her own name. If ~~((such))~~ the contract is made, the lessee shall be responsible for providing the county assessor with a proper and current mailing address.

(23) "Tax year" means the calendar year when property taxes are due and payable.

AMENDATORY SECTION (Amending WSR 95-17-099, filed 8/23/95, effective 9/23/95)

WAC 458-14-015 Jurisdiction of county boards of equalization. (1) Boards have jurisdiction to hear all appeals as may be authorized by statute, including the following types of appeals:

(a) ~~((Appeals of exemption denials arising under RCW 35.21.755 (public corporations).~~

~~(b))~~ Appeals for a change in appraised value when the department establishes taxable rent under ~~((RCW 82.29A.020 (2)(b)))~~ chapter 82.29A RCW (leasehold excise tax) based on an appraisal done by the county assessor at the request of the department.

(b) Appeals of assessor determinations related to cancellation of exemption pursuant to RCW 84.14.110 (multiple unit dwellings in urban centers).

(c) Appeals of decisions or disputes pursuant to RCW 84.26.130 (historic property).

(d) Forest land ~~((determinations pursuant to RCW 84.33.116, 84.33.118, 84.33.120,))~~ application denial under RCW 84.33.130, and forest land removal under RCW 84.33.140~~((, including an appeal of an assessor's refusal to classify land as forest land under RCW 84.33.120))~~.

(e) Current use determinations pursuant to RCW 84.34.035, denial of application for farm and agricultural land, and RCW 84.34.108 ((and 84.34.035)), removal from current use classification and appeal of new assessed valuation upon removal

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

of current use classification.

(f) Appeals pursuant to RCW 84.36.385 (senior citizen exemption denials).

(g) Appeals pursuant to RCW 84.36.812 (assessed value upon which additional tax is based, upon cessation of exempt use).

(h) Determinations pursuant to RCW 84.38.040 (property tax deferrals).

(i) Determinations pursuant to RCW 84.40.039 (valuation reduction after government restriction).

(j) Determinations pursuant to RCW 84.40.085 (omitted property or value).

~~((j))~~ (k) Valuation appeals of taxpayers pursuant to RCW 84.48.010.

~~((k))~~ (l) Appeal from a decision of the assessor relative to a claim for either real or personal property tax exemption, pursuant to RCW 84.48.010.

~~((l))~~ (m) Determinations pursuant to RCW 84.48.065 (cancellation or correction of manifest error) when the cancellation or correction results in a change on the assessment or tax roll.

(n) Destroyed property appeals pursuant to RCW 84.70.010.

(2) Boards have jurisdiction to equalize property values on their own initiative pursuant to RCW 84.48.010, in accordance with WAC 458-14-046.

AMENDATORY SECTION (Amending WSR 93-08-050, filed 4/2/93, effective 5/3/93)

WAC 458-14-025 Assessment roll (~~((corrections))~~) adjustments not requiring board action. (1) Introduction. The board need not be involved in all determinations made by an assessor relative to property tax matters, but may become involved in instances when a taxpayer appeals from an assessor's determination.

(2) Statutorily required (~~((corrections))~~) adjustments to the assessment rolls (~~((shall))~~) must be made by the assessor as necessary and (~~((shall))~~) do not require any board action. Such (~~((corrections))~~) adjustments include:

(a) Change of tax status due to a sale to or by a public (~~((corporation))~~) entity;

(b) The removal, addition, or change of status of a senior citizens/disabled exemption;

(c) The removal, addition, or change of status of a current

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

use ~~((assessment))~~ classification;

(d) The removal, addition, or change of status of forest land ~~((classification or))~~ designation;

(e) The reduction of property value with respect to destroyed property;

(f) The removal, addition, or change of status of a special valuation assessment (chapters 84.14 and 84.26 RCW);

(g) The exemption with respect to physical improvements to a single family dwelling (RCW 84.36.400);

(h) The change of status of property determined to be exempt by the department;

(i) ~~((The change of status of property owned by a public corporation, commission or authority, based on use (RCW 35.21.755); and~~

~~(+j))~~ The exemption of a sprinkler system installed in a nightclub (RCW 84.36.660);

(j) Valuation reduction after adoption of government restriction (RCW 84.40.039); and

(k) The cancellation or correction of assessment rolls which assessments are manifestly erroneous (RCW 84.48.065).

(3) Notice of any of the above changes, except for subsection (2)(h) of this section, ~~((shall))~~ must be ~~((personally served upon the taxpayer, or))~~ mailed to the taxpayer by the assessor, and ~~((shall))~~ must notify the taxpayer of the right to appeal the change to the board and ~~((shall))~~ must notify the taxpayer of the time period in which to file his or her petition.

AMENDATORY SECTION (Amending WSR 93-08-050, filed 4/2/93, effective 5/3/93)

WAC 458-14-026 Assessment roll corrections agreed to by taxpayer. (1) The assessor ~~((shall))~~ must make a correction to the assessment roll for the current assessment year when the correction involves an error in the determination of the valuation of property and the following conditions are met:

(a) The assessment roll has previously been certified in accordance with RCW 84.40.320;

(b) The taxpayer has timely filed a completed petition with the board for the current assessment year;

(c) The board has not yet held a hearing on the merits of the taxpayer's petition; and

(d) The assessor and taxpayer have signed an agreement as

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

to the true and fair value of the taxpayer's property in which agreement the parties set forth the valuation information which was used to establish ~~((such))~~ the true and fair value. The true and fair value ~~((shall))~~ must be the value as of January 1 of the year in which the property was last revalued by the assessor according to a revaluation cycle approved by the department. For example, if the county is on a ~~((multiyear))~~ four-year revaluation cycle, and the taxpayer's property was last revalued in ~~((1990))~~ 2005, any agreement between the taxpayer and the assessor based on an appeal by the taxpayer in ~~((1992))~~ 2007, must use the true and fair value of the taxpayer's property in ~~((1990))~~ 2005 as the basis of the agreement. The value thus agreed to will, in this example, only apply to the ~~((1992))~~ 2007 assessment year (the assessment year for which the taxpayer timely filed his or her appeal) and thereafter until the taxpayer's property is again revalued in accordance with an approved revaluation cycle.

(2) The assessor ~~((shall))~~ must immediately notify the board of any corrections to the assessment roll made in accordance with subsection (1) of this section, with a copy of the notification provided to the taxpayer, and the taxpayer's petition shall be deemed withdrawn as of the date of notification to the board.

AMENDATORY SECTION (Amending WSR 90-23-097, filed 11/21/90, effective 12/22/90)

WAC 458-14-046 Regularly convened session--Board duties--Presumption--Equalization to revaluation year. (1) RCW 84.48.010 requires the board to meet annually beginning July 15th for the purpose of equalizing property values in the county and to hear taxpayer appeals. The board ~~((shall))~~ must remain in session not less than three days, nor more than twenty-eight days, provided that the board, with the approval of the county legislative authority may convene at any time when taxpayer petitions filed exceed twenty-five or ten percent of the number of petitions filed in the preceding year, whichever is greater. It is only during this twenty-eight day session that the board has the authority to equalize property values on its own initiative.

(2) At its regularly convened session, the board ~~((shall))~~ must adjust the current assessment year's value of property, both real and personal, to its true and fair value, but only if

the board finds that the assessed value is not correct based upon:

(a) Information available to the board and/or the board's own examination and comparison of the assessment roll; or

(b) A request by the assessor, together with necessary valuation information, for correction of an error which correction requires ~~((some))~~ appraisal judgment.

(3) The board ~~((shall))~~ must also hold hearings in accordance with WAC 458-14-076 on properly and timely filed taxpayer petitions.

(4) The assessor's valuation ~~((shall be))~~ as certified to the board of equalization under RCW 84.40.320 is presumed correct, except with respect to subsection (2)(b) of this section~~((, unless the board has clear, cogent, and convincing evidence that the valuation is grossly inequitable and palpably excessive or that the valuation was made on a fundamentally wrong basis))~~. The taxpayer may overcome the presumption of correctness in favor of the assessor's valuation as follows:

(a) If a taxpayer shows by clear, cogent, and convincing evidence that the assessor's overall approach to valuation, or the assessor's valuation method, is flawed or invalid, then the presumption does not apply. For example, the taxpayer may be able to prove that the assessor failed to deduct any amount for depreciation when using the cost approach to value on an existing improvement. In such a case, the taxpayer only needs to prove the correct value of the property by a preponderance of the evidence.

(b) If a taxpayer shows by clear, cogent, and convincing evidence that a specific value within an overall assessed value is incorrect, then the standard of proof shifts to preponderance of the evidence for all contested issues related to that specific value. For example, the overall assessment of complex industrial properties is often made up of particular values for portions of the property being appraised. An assessor's error on one value decision does not necessarily invalidate the entire property's assessment, and the presumption of correctness in favor of the assessor remains with respect to the remainder of the property.

(5) In counties which are not on an annual revaluation cycle, the board ~~((shall))~~ must, in relation to a taxpayer appeal or otherwise, equalize real property values to true and fair value as of January 1 of the year in which the property was last revalued by the county assessor according to an approved revaluation cycle.

(6) The board ~~((shall))~~ must also consider any taxpayer appeals from an assessor's decision with respect to tax

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

exemption of real or personal property, and determine:

- (a) If the taxpayer is entitled to an exemption; and
- (b) If so, the amount thereof.

AMENDATORY SECTION (Amending WSR 95-17-099, filed 8/23/95, effective 9/23/95)

WAC 458-14-056 Petitions--Time limits--Waiver of filing deadline for good cause. (1) The sole method for appealing an assessor's determination to the board, as to valuation of property, or as to any other types of assessor determinations (~~((shall be))~~) is by means of a properly completed and timely filed taxpayer petition.

(2) A taxpayer's petition for review of the assessed valuation placed upon property by the assessor or for review of any of the types of appeals listed in WAC 458-14-015 (~~((shall))~~) must be filed in duplicate with the board on or before July 1st of the assessment year or within thirty days, or up to sixty days if a longer time period is adopted by the county legislative authority, after the date an assessment or value change notice or other determination notice is mailed to the taxpayer, whichever date is later (RCW 84.40.038).

(3) No late filing of a petition shall be allowed except as specifically provided in this subsection. The board may waive the filing deadline if the petition is filed within a reasonable time after the filing deadline and the petitioner shows good cause, as defined in this subsection, for the late filing. A petition that is filed after the deadline without a showing of good cause (~~((shall))~~) must be dismissed unless, after the taxpayer is notified by the board that the petition will be dismissed because of the late filing, the taxpayer promptly shows good cause for the late filing. The board (~~((shall))~~) must decide a taxpayer's claim of good cause without holding a public hearing on the claim and (~~((shall))~~) must promptly notify the taxpayer of the decision, in writing. The board's decision regarding a waiver of the filing deadline is final and not appealable to the state board of tax appeals. Good cause may be shown by documentation of one or more of the following events or circumstances:

(a) The taxpayer was unable to file the petition by the filing deadline because of a death or serious illness of the taxpayer or of a member of the taxpayer's immediate family occurring at or shortly before the time for filing. For

purposes of this subsection, the term "immediate family" includes, but is not limited to, a grandparent, parent, brother, sister, spouse, child, or grandchild.

(b) The taxpayer was unable to file the petition by the filing deadline because of the occurrence of all of the following:

(i) The taxpayer was absent from his or her home or from the address where the assessment notice or value change notice is normally received by the taxpayer. If the notice is normally mailed by the assessor to a mortgagee or other agent of the taxpayer, the taxpayer must show that the mortgagee or other agent was required, pursuant to written instructions from the taxpayer, to promptly transmit the notice and failed to do so; and

(ii) The taxpayer was absent (as described in (b)(i) of this subsection) for more than fifteen of the thirty days prior to the filing deadline; and

(iii) The filing deadline is after July 1 of the assessment year(~~(, that is, the notice from which the taxpayer appeals was mailed within the assessment year and after June 1st))~~).

(c) The taxpayer was unable to file the petition by the filing deadline because the taxpayer reasonably relied upon incorrect, ambiguous, or misleading written advice as to the proper filing requirements by either a board member or board staff, the assessor or assessor's staff, or the property tax advisor designated under RCW 84.48.140, or his or her staff.

(d) The taxpayer was unable to file the petition by the filing deadline because of a natural disaster such as a flood or earthquake occurring at or shortly before the time for filing.

(e) The taxpayer was unable to file the petition by the filing deadline because of a delay or loss related to the delivery of the petition by the postal service. The taxpayer must be able to provide documentation from the postal service of such a delay or loss.

(f) The taxpayer is a business and was unable to file the petition by the filing deadline because the person employed by the business, responsible for dealing with property taxes, was unavailable due to illness or unavoidable absence.

(4) If a petition is filed by mail it (~~(shall)~~) must be postmarked no later than the filing deadline. If the filing deadline falls upon a Saturday, Sunday or holiday, the petition (~~(shall)~~) must be filed on or postmarked no later than the next business day.

(5) A petition is properly completed when all relevant questions on the form provided or approved by the department have been answered and the answers contain sufficient

information or statements to apprise the board and the assessor of the reasons for the appeal. A petition which merely states that the assessor's valuation is too high or that property taxes are excessive, or similar such statements, is not properly completed and ~~((shall))~~ must not be considered by the board. If, at the time of filing the petition, the taxpayer does not have all the documentary evidence available which he or she intends to present at the hearing, the petition will be deemed to be properly completed for purposes of preserving the taxpayer's right of appeal, if it is otherwise fully and properly filled out. However, any comparable sales ~~((or other))~~, valuation evidence, or other documentary evidence not submitted at the time the petition is filed must be provided by the taxpayer to the assessor and the board at least seven business days, excluding legal holidays, prior to the board hearing. A copy of ~~((such))~~ the completed petition ~~((shall))~~ must be provided to the assessor by the clerk of the board. Any petition not fully and properly completed ~~((shall))~~ must not be considered by the board (RCW 84.40.038) and a notice of the board's rejection of the petition must be promptly mailed to the taxpayer. See: WAC 458-14-066 Requests for valuation information--Duty to exchange information--Time limits, for an explanation of the availability, use and exchange of valuation and other documentary information prior to the hearing before the board.

(6) Whenever the taxpayer has an appeal pending with the board, the state board of tax appeals or with a court of law, and the assessor notifies the taxpayer of a change in property valuation, the taxpayer is required to file a timely petition with the board in order to preserve the right to appeal the change in valuation. For example, if a taxpayer has appealed a decision of the board to the board of tax appeals regarding an assessed value for the year ~~((1989))~~ 2005, and that appeal is pending when the assessor issues a value change notice for the ~~((1990))~~ 2006 assessment year, the taxpayer must still file a timely petition appealing the valuation for the ~~((1990))~~ 2006 assessment year in order to preserve his or her right to appeal from that ~~((1990))~~ 2006 assessed value. If the taxpayer has an appeal pending before any board, the board of tax appeals, or any court, and the assessor does not issue a value change notice regarding the property under appeal while the appeal is pending, the taxpayer does not need to take any further action to preserve the effect of the decision reached on appeal, for an assessment year subsequent to the year being appealed. For example, if a taxpayer appeals a board decision to the board of tax appeals regarding assessment year 2005, and that appeal is pending until assessment year 2007, but the assessor has not

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

changed the 2005 assessed value of the taxpayer's property for assessment year 2006, and does not send the taxpayer a value change notice for 2006, the decision of the board of tax appeals in 2007 applies to the assessed value in 2006 without any further action by the taxpayer. The assessor would make the 2006 assessed value comply with the decision, if a change for 2005 is ordered.

(7) Petition forms shall be available from the clerk of the board and from the assessor's office.

AMENDATORY SECTION (Amending WSR 95-17-099, filed 8/23/95, effective 9/23/95)

WAC 458-14-066 Requests for valuation information--Duty to exchange documentary information--Time limits. (1)

Introduction. Timely access to valuation and other documentary information should be provided to both parties prior to the hearing on a petition so that time-consuming and costly discovery procedures are unnecessary. The postmark is used to determine whether the information is timely provided.

(2) Requests by a taxpayer for valuation information from the assessor may be made on the petition form filed with the board, or may be made at any reasonable time prior to the hearing. Upon request by the taxpayer, the assessor (~~shall~~) must make available to the taxpayer the comparable sales used in establishing the taxpayer's property valuation. If valuation criteria other than comparable sales were used, the assessor (~~shall~~) must provide the taxpayer with (~~such~~) the information. All such valuation information, including comparable sales, (~~shall~~) must be provided to the taxpayer and the board within sixty days of the request but at least fourteen business days, excluding legal holidays, prior to the taxpayer's appearance before the board of equalization.

(3) The valuation information provided by the assessor to the taxpayer (~~shall~~) must not be subsequently changed by the assessor unless the assessor has found new evidence supporting the assessor's valuation, in which situation the assessor (~~shall~~) must provide the additional evidence to the taxpayer and the board at least fourteen business days prior to the hearing at the board.

(4) A taxpayer who lists comparable sales on the petition, or who provides the board and the assessor with comparable sales or valuation evidence after filing the petition (~~shall~~) must

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

not thereafter change or add other comparable sales ~~((or))~~, valuation evidence, or other documentary evidence without ~~((providing))~~ mailing or submitting the evidence to the assessor and the board ~~((with the additional information))~~ at least seven business days, excluding legal holidays, prior to the board hearing.

(5) If either the assessor or taxpayer does not comply with the requirements of this section, the board in its discretion may take any of the following actions:

(a) If there is no objection by either party, consider the new evidence provided by either party and proceed with the hearing;

(b) If there is an objection by either party to the failure of the other party to comply with the requirements of this section, the board may:

(i) Refuse to consider evidence that was not timely submitted;

(ii) Accept the evidence that was not timely submitted, regardless of a party's objection, when the evidence is not unduly detrimental to the objecting party, and give the evidence the appropriate weight;

(iii) Postpone the hearing for a definite time period designated by the board, to provide the parties an opportunity to review all evidence; or

~~((iii))~~ (iv) Proceed with the hearing but allow the parties to submit new evidence to the board and the other party, after the hearing is concluded, within definite time periods designated by the board, and provide each party with an adequate opportunity to rebut or comment on the new evidence prior to the board's decision.

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

AMENDATORY SECTION (Amending WSR 90-23-097, filed 11/21/90, effective 12/22/90)

WAC 458-14-076 Hearings on petitions--Withdrawal. (1) The board or one of its hearing examiners (~~((shall))~~) must hold individual hearings on each properly filed petition which has not been withdrawn or otherwise disposed of. A taxpayer may withdraw a petition as a matter of right by written notice received by the board no later than two business days prior to the scheduled hearing. The board, in its discretion, may allow the taxpayer to withdraw up to the time of the hearing. The board must promptly notify the assessor of the taxpayer's withdrawal.

(2) The assessor and taxpayer (~~((shall))~~) must be provided notice of the hearing date by the clerk of the board at least fifteen business days before the hearing, unless the clerk and the parties agree upon a shorter time period.

(3) If property is sold or transferred after a petition has been timely filed, the seller or transferor may continue to pursue the appeal unless otherwise agreed in writing between the parties. If the seller or transferor does not pursue the appeal, the new purchaser or transferee may pursue the appeal in place of the seller or transferor.

(4) All persons testifying before the board (~~((shall))~~) must swear or affirm on the record that they will testify truthfully under penalty of perjury.

AMENDATORY SECTION (Amending WSR 90-23-097, filed 11/21/90, effective 12/22/90)

WAC 458-14-095 Record of hearings. (1) All hearings of a board or its hearing examiners (~~((shall))~~) must be recorded with an audio recording device.

(2) Testimony concerning information which is exempt from public disclosure pursuant to RCW 84.40.340 or 42.17.310 (~~((shall))~~) must be recorded on a separate (~~((blank audio tape))~~) audio recording device, and (~~((shall))~~) must, along with any other confidential evidence, be placed in an envelope bearing the

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

notation "confidential evidence" and the case number, and sealed from public inspection. The clerk (~~((shall))~~) must keep a separate file for all (~~((such))~~) the confidential evidence. Provided that, notwithstanding the above described procedures, any procedure which substantially complies with the confidentiality requirements of the above mentioned statutes shall be sufficient.

(3) The public record (~~((shall))~~) must include:

(a) The date or dates the board was in session;

(b) The names of board members or hearing examiners in attendance; and

(c) All evidence presented to the board.

(4) The requirements of this section shall not apply to post hearing deliberations of a board.

(5) Boards are not required to provide transcripts of proceedings to any person or entity other than as may be required by chapter 42.17 RCW, however board clerks (~~((shall))~~) must complete a form provided by the department for each hearing.

(6) The records of the board (~~((shall))~~) must be kept and maintained as required by RCW 40.14.060.

AMENDATORY SECTION (Amending WSR 95-17-099, filed 8/23/95, effective 9/23/95)

WAC 458-14-116 Orders of the board--Notice of value adjustment--Effective date. (1) All orders issued by a board (~~((shall))~~) must be on the form provided or approved by the department and (~~((shall))~~) must state the facts and evidence upon which the decision is based and the reason(s) for the decision.

(2) All orders of the board (~~((shall))~~) must be signed by the chairman of the board, provided, however, that the chairman may, by written designation, authorize other members or the board clerk to sign orders on behalf of the chairman.

(3) After a hearing, if a board adjusts or sustains the valuation of a parcel of real property or an item of personal property, the board (~~((shall))~~) must serve or mail notice of the decision to the appellant and the assessor.

(a) If the valuation is reduced, the new valuation shall take effect immediately, subject to the parties' right to appeal the decision.

(b) If the valuation is increased, the increased valuation shall become effective thirty days after the date of service or

mailing of the notice of the adjustment unless the taxpayer or assessor files a petition to the board of tax appeals in accordance with WAC 458-14-170, before the effective date. If such a petition is filed, the increase does not take effect until the board of tax appeals disposes of the matter.

(4) If the valuation is increased without a petition having been filed, the increased valuation shall become effective thirty days after the date of service or mailing of the notice of the adjustment to the assessor and the taxpayer unless the assessor or taxpayer files a petition with the board on or before the effective date.

(5) In counties with a multiyear revaluation cycle, orders issued by the board shall have effect up to the end of the revaluation cycle used by the assessor and approved by the department. The board order may contain a specific statement notifying the parties of this effect. If there has been an intervening change in assessed value of the taxpayer's property between the time the petition was filed and the date the board's order is issued, the board's order shall have effect only up to the effective date of the change in assessed value. The same effect will also apply when a valuation adjustment is ordered upon appeal of a board order.

(6) In counties with a multiyear revaluation cycle, once the board has issued a decision with respect to a taxpayer's real property, and when there has been no intervening change in assessed value, any subsequent appeal to the board:

(a) By the same taxpayer relating to the same property shall be treated as a motion for reconsideration. The board (~~shall~~) must hold a hearing on the appeal/motion only if the taxpayer can show that there is newly discovered evidence that materially affects the basis for the board's decision and the taxpayer can show that the evidence could not with reasonable diligence have been discovered and produced at the original hearing;

(b) By a taxpayer who acquired the property from the taxpayer to whom the board decision was issued, and for a subsequent assessment year, shall be treated as an original appeal.

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

AMENDATORY SECTION (Amending WSR 95-17-099, filed 8/23/95, effective 9/23/95)

WAC 458-14-127 Reconvened boards--Authority. (1) Boards of equalization may reconvene on their own authority to hear requests concerning the current assessment year when the request is filed with the board by April 30 of the tax year immediately following the board's regularly convened session and at least one of the following conditions is met:

(a) A taxpayer requests the board reconvene and submits to the board ~~((a sworn))~~ an affidavit stating that notice of change of value for the assessment year was not received by the taxpayer at least fifteen calendar days prior to the deadline for filing the petition, and can show proof that the value was actually changed.

(b) An assessor submits an affidavit to the board stating that the assessor was unaware of facts which were discoverable at the time of appraisal and that such lack of facts caused the valuation of property to be materially affected. Submitting such an affidavit to the board is for the purpose of correcting latent defects in the assessment process that become apparent only after the normal appeal process has expired, and is wholly within the assessor's discretion. In the affidavit, the assessor ~~((shall))~~ must state the facts which affected the value and also state both the incorrect value and the true and fair market value of the property and ~~((shall))~~ must mail a copy of the affidavit to the taxpayer. If the board decides to reconvene to consider the valuation, it ~~((shall))~~ must notify both the taxpayer and assessor of its decision in writing.

(c) In an arm's length transaction, a bona fide purchaser or contract buyer of record has acquired an interest in real property subsequent to the first day of July and on or before December 31 of the assessment year and the sale price was less than ninety percent of the assessed value.

(2) Upon request of either the taxpayer or the assessor, boards may reconvene on their own authority to hear appeals with respect to property or value that was omitted from the assessment rolls. No request shall be accepted ~~((for any period more than three years preceding the year in which the omission is discovered))~~ if it is made concerning an assessment year that is more than three years prior to the year the omitted property or value was discovered. The request itself must be received by

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

the board no later than thirty calendar days, or up to sixty days if a longer time period is adopted by the county legislative authority under RCW 84.40.038, after the mailing of the notification of the discovery of the omitted property or value. For example, if omitted property is discovered in September 2005, and the property was omitted since 2000, the board may only reconvene to hear an appeal for assessment year 2002, and subsequent years. If the taxpayer is notified by mail of the discovery of the omitted property or value on October 14, 2005, for example, any request with respect to the omitted property or value must be made no later than thirty calendar days after October 14, 2005, or up to sixty days if a longer time period is adopted by the county legislative authority under RCW 84.40.038.

(3) Requests for reconvening boards concerning prior year's assessments or for an extension of the annual regularly convened session to enable the board to complete its annual equalization duties (~~((shall))~~) must be submitted to the clerk of the board who (~~((shall))~~) must submit (~~((such))~~) the request to the department for determination.

(4) The department may require any board to reconvene at any time for the purpose of performing or completing any duty or taking any action the board might lawfully have performed or taken at any of its previous meetings, or for any other purpose allowed by law. This statutory authority is reserved for those instances when an error or injustice has occurred and where the regular remedial procedures do not apply. These instances include significant valuation errors that become apparent only after the normal appeal process has expired.

(5) The department (~~((shall))~~) must reconvene a board upon request of a taxpayer when the taxpayer makes a prima facie showing of actual (~~((or constructive))~~) fraud on the part of taxing officials, or makes a prima facie showing that the taxpayer's property is overvalued by at least double the true and fair value. The department (~~((shall))~~) must reconvene a board upon request of an assessor when the assessor makes a prima facie showing of actual or constructive fraud on the part of a taxpayer.

(6) All reconvening requests (~~((shall))~~) must:

(a) Specify the assessment year(s) that is the subject of the request; and

(b) State the specific grounds upon which the request is based; and

(c) If the taxpayer is the party requesting the reconvening, state that he or she is the owner or duly authorized agent, personal representative or guardian, of the

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

property or is a lessee responsible for the payment of the property taxes.

(7) No board shall reconvene later than three years after the adjournment of its regularly convened session, except in the case of omitted property or value, as noted in subsection (2) of this section. The three years is determined by the date of adjournment of the board's regularly convened session, which is four weeks after July 15th, or four weeks after the first business day after July 15th, if July 15th falls on a Saturday, Sunday, or holiday. For example, for a timely request to reconvene regarding the 2006 assessment roll, the allowable time period in which to receive the request would be from August 14, 2006 through August 13, 2009.

AMENDATORY SECTION (Amending WSR 90-23-097, filed 11/21/90, effective 12/22/90)

WAC 458-14-136 Hearing examiners. (1) Any board may employ one or more hearing examiners to assist the board in conducting hearings.

(2) All hearing examiners (~~((shall))~~) must take the same oath required of regular board members and (~~((shall))~~) must meet the same qualifications for membership as regular board members.

(3) A board member may act as a hearing examiner.

(4) A hearing examiner may hold hearings separate from the board and take testimony from both parties and their witnesses.

(5) Hearing examiners (~~((shall))~~) must present to the full board or a quorum thereof, all evidence submitted by the parties at the hearing before the hearing examiner. The board (~~((shall))~~) must make the final determination on all petitions filed. The board may make its final determination based upon the record submitted by the examiner or may request further testimony or documentation from either the taxpayer or the assessor, including their witnesses, before making its final determination.

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

AMENDATORY SECTION (Amending WSR 95-17-099, filed 8/23/95, effective 9/23/95)

WAC 458-14-160 Continuances--Ex parte contact. (1) Extensions of time, other than the time for filing petitions, continuances, and adjournments may be ordered by the board on its own motion or may be granted by it, in its discretion, on motion of any party showing good and sufficient cause therefor. For a waiver of the time limit in which to file the petition, see WAC 458-14-056(3).

(2) No one shall make or attempt to make any ex parte contact with board members except upon notice and opportunity for all parties to be present or to the extent required for the disposition of ex parte matters as authorized by law(~~(, nor shall a)~~). No board member shall make or attempt to make any ex parte contact with any person regarding any issue in the proceeding (~~((who has a direct or indirect interest in the outcome of the proceeding))~~), without notice and opportunity for all parties to participate, unless necessary to procedural aspects of maintaining an orderly process.

AMENDATORY SECTION (Amending WSR 95-17-099, filed 8/23/95, effective 9/23/95)

WAC 458-14-170 Appeals to the state board of tax appeals. (1) Pursuant to RCW 84.08.130, any taxpayer, taxing unit, or assessor feeling aggrieved by the action of a board may appeal to the board of tax appeals by filing with the board of tax appeals a notice of appeal within thirty days after the board has served or mailed its decision. The appeal is deemed timely filed with the board of tax appeals if postmarked on or before the thirtieth day after the board of equalization has served or mailed its decision.

(2) The notice of appeal (~~((shall))~~) must specify the actions of the board that the appellant is appealing, and (~~((shall))~~) must be in (~~((such))~~) the form (~~((as is))~~) required by the board of tax appeals (see WAC 456-10-310 and 456-09-310). (~~((The petitioner shall serve a copy of the notice of appeal on all named parties~~

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

~~within the same thirty-day time period.))~~

(3) The board appealed from ~~((shall))~~ must file with the board of tax appeals a true and correct copy of its decision in ~~((such))~~ the action and all evidence taken in connection therewith.